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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matters of)

Deployment of Wireline Services Offering)
Advanced Telecommunications Capability)

CC Docket No. 98-147

BELLSOUTH COMMENTS IN SUPPORT OF VERIZON'S
PETITION FOR CONDITIONAL WAIVER

BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth"), by and through their attorneys, hereby respectfully submit the following comments in support of Verizon's Petition for Conditional Waiver filed on October 11, 2000. This Petition seeks waiver from the 90-day collocation interval established by the Commission in its recent *Collocation Order*.¹ The Commission should grant Verizon's request to suspend the 90-day interval while the Commission determines the outcome of Verizon's Petition for Reconsideration regarding the validity of the 90-day interval.

The Commission released its *Collocation Order* on August 10, 2000. This *Order* established, *inter alia*, that in the absence of a state standard or an alternative standard agreed to by a requesting carrier and an incumbent local exchange carrier ("ILEC"), ILECs must provide

¹ *In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 98-147 and 96-98, *Order On Reconsideration and Second Further Notice Of Proposed Rulemaking In CC Docket No. 98-147 And Fifth Further Notice Of Proposed Rulemaking In CC Docket No. 96-98*, FCC 00-297, released August 10, 2000 ("*Collocation Order*").

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physical collocation on a 90-day interval.² On October 10, 2000, Verizon filed a Petition for Reconsideration (“PFR”) with the Commission requesting that the 90-day interval be changed to a more realistic timeframe. Verizon’s PFR sets forth compelling facts that fully demonstrate the 90-day interval established by the Commission in the *Collocation Order* is completely unjustified.³ Indeed, the Verizon PFR describes in detail how the New York Public Service Commission (“New York PSC”) established collocation intervals that are no less than 76 business days. The New York PSC set this interval after extensive analysis of a lengthy record on the matter. Moreover, the Commission accepted this interval when it approved Verizon’s application to provide interLATA services in New York.⁴ The Verizon PFR goes on to discuss the many time-specific requirements necessary to complete physical collocation by an ILEC and how a national default interval of 90-days set by the Commission appears arbitrary and unreasonable. Accordingly, it is highly probable that the Commission will reconsider its initial decision and establish a more realistic default interval.

² See *Collocation Order* ¶ 21. Paragraph 36 of the *Collocation Order* requires ILECs “to file with the state commission any amendments necessary to bring a tariff or SGAT into compliance with the national standards. At the time it files these amendments, the incumbent also must file its request, if any, that the state set intervals longer than the national standards as well as all supporting information.” BellSouth understands this requirement to be applicable only where a state has failed to set its own interval “by statute, through an existing or future rulemaking order, by enforcing a state tariff, or by applying the precedent of a state arbitration decision.” *Collocation Order* ¶ 22. Where the state has set its own interval, the state interval should apply. BellSouth filed a Petition for Clarification or in the Alternative for a Waiver requesting that the Commission clarify that the implementation of a national 90-day standard required in paragraph 36 of the *Collocation Order* applies only where a state commission has not set its own intervals. BellSouth’s Petition asks, however, that if the Commission intended for the contradictory section of paragraph 36 to apply in all states, then the Commission grant BellSouth a waiver from such requirement in states where the state commission has established an interval.

³ The facts, which are discussed in Verizon’s PFR explaining why the 90-day interval is unreasonable, are applicable not only for Verizon but are also applicable for all ILECs

⁴ See Verizon Petition for Reconsideration, CC Docket No. 98-147, filed on October 10, 2000.

Because the Commission is likely to revise the 90-day interval, it would be counter-productive to require Verizon to conform to the 90-day interval in states that have not established their own standard.⁵ Without the waiver requested by Verizon, however, this is exactly what Verizon will have to do. This task is exacerbated by the fact that if Verizon believes that the 90-day interval is unreasonable, as it argues it will be in almost every case, Verizon must then make a filing with the state commission asking that the 90 day interval be extended. Thus, in states that have not established their own intervals, not only will Verizon have to make a filing with state commissions to conform to the unreasonable 90-day interval, it will simultaneously have to file a request to have the 90-day interval extended because it will be unobtainable in most situations.

Accordingly, the Commission should grant Verizon's request to use the New York collocation interval in all states that have not established their own collocation interval while the Commission considers Verizon's Petition for Reconsideration on the reasonableness of the 90-day interval. Verizon's request is more than reasonable considering that it is not requesting a waiver from any form of an interval, but is merely asking that the 90-day interval established in the *Collocation Order* be suspended in favor of the intervals accepted by the New York PSC. Because the Commission has already reviewed the New York intervals in accordance with Verizon's application to provide interLATA services in New York, the New York interval

⁵ See *supra* note 2.

should be acceptable to the Commission as an alternate interval while the Commission decides on Verizon's PFR.

Respectfully submitted,

BELLSOUTH CORPORATION
BELLSOUTH TELECOMMUNICATIONS, INC.

By: /s/ Stephen L. Earnest

M. Robert Sutherland

Richard M. Sbaratta

Stephen L. Earnest

Their Attorneys

Suite 1700

1155 Peachtree Street, N. E.

Atlanta, Georgia 30306-3610

(404) 249-3386

Date: October 23, 2000

CERTIFICATE OF SERVICE

I do hereby certify that I have this 23rd day of October 2000 served the following parties to this action a copy of the foregoing **BELLSOUTH COMMENTS IN SUPPORT OF VERIZON'S PETITION FOR CONDITIONAL WAIVER** by hand delivery and/or by placing a true and correct copy of the same in the United States Mail, postage prepaid addressed to the parties listed below.

Edward Shakin
Joseph Di Bella
Verizon Telephone Companies
1320 North Court House Road
Arlington, VA 22201

+Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals, 445 Twelfth Street, S. W.
Room TW-A325
Washington, D. C. 20554

+**International Transcription Services**
The Portals, 445 Twelfth Street, S. W.
Suite CY-B400
Washington, D. C. 20554

/s/ Juanita H. Lee

Juanita H. Lee

+ VIA HAND DELIVERY